sentry and for that had been arrested and charged with murder and detained in custody. While in custody he had made statements to the Police and had been released and was then called as a prosecution witness. He excused himself for his participation in the crime by saying, which might or might not be true, that he acted under duress, under threats of death. He had every reason in the world for avoiding personal criminal liability. The result clearly was that even if technically he was not an accomplice and therefore as a matter of law his evidence did not require corroboration nevertheless as a matter of prudence it should have been examined most carefully in the light of the rest of the evidence to ascertain whether as regards any of the accused it was corroborated before it was relied on against that accused. In effect, however, the jury were told that if they were satisfied that he was not acting under duress then his evidence need not call for corroboration by reason of his participation in the crime. In our view this, if not actually misleading, was an extremely inadequate direction. It was peculiarly a case where to quote the words of Schreiner J.A. in the South African case of *R.* v. *Ncanana*[4]:—

"the trier of fact should warn himself, or, if the trier is a jury, that it should be warned, of the special danger of convicting on the evidence of an accomplice; for an accomplice is not merely a witness with a possible motive to tell lies about an innocent accused but is such a witness peculiarly equipped, by reason of his inside knowledge of the crime, to convince the unwary that his lies are the truth."

It is true, and this leads to the second ground on which we regard the summing-up as unsatisfactory, that the Judge went on to warn the jury that even if the witness was not an accomplice he was a child and that there is a risk in acting on the uncorroborated evidence of a child.

Again, in our view, the direction though not inaccurate was inadequate. One reason why children's evidence is regarded with suspicion is that there is always the danger that a child may not fully understand the effect of taking an oath. In this country where evidence is taken on affirmation that consideration loses much of its force. Another reason, however, which in this country possesses undiminished force is that it is a matter of common knowledge that children at times find it difficult to distinguish between reality and fantasy. They find it difficult after a lapse of time to distinguish between the results of observation and the results of imagination. In our view something of the sort should have been put to the jury. At the very lowest they should have been invited to consider their own experience in connection with stories told by children. It was not sufficient merely to observe that there is a risk in acting on the uncorroborated evidence of a child. In any event we have grave doubts as to whether even so far as it goes that observation is strong enough. As was said by Lord Goddard in the case of *Mohamed Sugal Esa* v. *The King*[5]:—

"It is a sound rule in practice not to act on the uncorroborated evidence of a child, whether sworn or unsworn, but this is a rule of prudence and not of law."

Had the jury been directed as fully as we think they should have been on these points it is quite impossible to say with certainty that the appellants would have been convicted. In the circumstances we had no option but to quash their convictions.

Appeals allowed. Convictions quashed.

Solicitors: *Lee & Lee.*

HARDIAL SINGH v. LIM LYE HUAT

[A. C. J. (Rose C.J.) March 18, 1960]

[Singapore — District Court Appeal No. 25 of 1959]

Landlord and Tenant — Infringement of the provisions of s.15(g) — Control of Rent Ordinance (Cap. 242) — Method of calculation.

By law the tenant is entitled to collect in the aggregate from his subtenants a sum not exceeding 110 per cent of the recoverable rent paid by himself, excluding any amounts which can be attributed to municipal services paid by himself for the use of his subtenants.

Method of calculating recoverable rent discussed.

DISTRICT COURT APPEAL.

J. E. Lloyd for the appellant.

Tan Boon Teik (Director of Legal Aid) for the respondent.

Rose C.J.: The claim in the present matter is for possession of premises occupied by the defendant/respondent on the ground that he has infringed the provisions of section 15(g) of the Control of Rent Ordinance (Cap. 242). The subsection reads as follows:—

"(g) where the tenant having sublet the premises or part thereof receives in respect of such subletting, rents (excluding any municipal services paid by the tenant) for any sublet part of the premises in excess of the recoverable rent for that part, or rents which exceed in the aggregate one hundred and ten per centum of the recoverable rent paid by the tenant himself including the apportioned rental or value of any part of the premises retained by the tenant or not sublet by him;".

It is common ground that the respondent was paying to the appellant a rental of $37.50 per month and that he had sublet a portion of the premises. The rental value of the portion of the premises retained by the respondent is agreed at $10.12.

By law he is entitled to collect in the aggregate from his subtenants a sum not exceeding 110 per cent. of the recoverable rent paid by himself, excluding any amounts which can be attributed to municipal services paid by himself for the use of his subtenants.

Calculating the sum to be arrived at the learned District Judge added $3.75 (i.e. 10% x $37.50) to the rental, thus arriving at a figure of $41.25 from which must be deducted $10.12, leaving a figure of $31.13 which he is entitled to collect from his subtenants exclusive of municipal services.

Learned Counsel for the appellant contends that this is an incorrect method of calculation, submitting that the correct sum is $37.50 less $10.12 (i.e. $27.38) plus $2.74 being 10% to two points of decimals of $27.38; the resulting sum therefore being $30.12.

As regards the present matter the question is academic as on either calculation, having regard to the charges for electricity, water and night soil (which were in my opinion sufficiently proved in the Court below) the defendant is well within the limit imposed whichever basis of calculation is adopted.

Were it necessary to decide the point, however, I myself favour the appellant's view and think that the correct sum is $37.50 less $10.12 plus 10% of the resulting figure.

The appeal must be dismissed. There will be no order as to costs. Deposit of 150 dollars to be repaid to the appellants.

Appeal dismissed.

Solicitors: *Drew & Napier; Director of Legal Aid.*

SANDANAM v. LIM CHENG

[A. C. J. (Hepworth J.) March 26, 1960]

[Raub — Civil Appeal No. 2 of 1960]

Landlord and Tenant — Claim for possession of premises — Arrears of rent, arrears of rates and mesne profits — Jurisdiction of Sessions Court — Court Ordinance, 1948, s.70(3) — Meaning of "rent."

The plaintiff claimed vacant possession of the premises and also $980 arrears of rent plus $574.60 arrears of rates and mesne profits totalling $103.80 per month. The premises were held by the defendant under an agreement which in addition to providing for the payment by him of a monthly rental of $70.00 also provided for the payment by him of "any subsidiary charges by the Town Board in regard to the said premises." The facts not being disputed, judgment was entered against the defendant in the Sessions Court. The defendant appealed on the ground that since the money claim exceeded $1,200 and the rent exceeded $100, the Sessions Court had no jurisdiction by virtue of section 70(3) Courts Ordinance, 1948.

Held, allowing the appeal: (1) the money claim being for $1,554.60, the Sessions Court had no jurisdiction;

(2) the word "rent" in section 70(3) of the Courts Ordinance means rent from the common law point of view of something issuing out of the land for which a distress could issue.

Cases referred to:—

(1) *Sidney Trading Co.* v. *Finsbury Borough Council* [1952] 1 All E.R. 460.

(2) *Montague* v. *Browning* [1954] 1 W.L.R. 1039; [1954] 2 All E.R. 601.

(3) *Property Holding Co. Ltd.* v. *Clark* [1948] 1 K.B. 630; [1948] 1 All E.R. 165, 173.

CIVIL APPEAL from Sessions Court.

Lal Singh Muker for the appellant.

Kam Woon Wah for the respondent.

Cur. Adv. Vult.

Hepworth J.: This is an appeal by the defendant tenant against the respondent landlord from an order for possession of 94 Main Street, Kuala Lipis, made by the President of the Sessions Court, Kuala Lipis, the only ground of appeal being that the Sessions Court had no jurisdiction.

It is unnecessary to set out in detail the somewhat complicated series of events which have happened in this case. Suffice it to say that the defendant-appellant had been precluded from defending the suit under O. 10 r. 7 of the Subordinate Courts Rules, 1950, and the President's order to this effect had been upheld on appeal. Accordingly when the case came up for hearing on the 25th August, 1958, the plaintiff was formally called upon to prove his case by oral evidence under O. 19 r. 4 of the Rules.

In addition to claiming vacant possession of the premises in his Statement of Claim the plaintiff also claimed $980 arrears of rent plus $574.60 arrears of rates and *mesne* profits from the date of commencement of the proceedings to the date of judgment of $70 rent per month and $33.80 for rates per month, making a total of $103.80 per month. The premises had been held by the appellant under an agreement which in addition to providing for the payment by him of a monthly rental of $70 also provided for the payment by him of "any subsidiary charges by the Town Board in regard to the said premises".

Both counsel agreed that the facts were not in dispute, and that under the agreement a sum equal to the rates was properly payable by the tenant (appellant) to the landlord (respondent).

The question of jurisdiction had not been raised in the Sessions Court but it was now claimed on behalf of the appellant that by virtue of the claim for $1,554.60 ($980 arrears of rent and $574.60 arrears of rates) and *mesne* profits of $103.80 per month in addition to the claim for the recovery of the land, the money claim exceeded the sum of $1,200 and the rent exceeded $100 per mensem, and accordingly by virtue of the provisions of sub-section (3) of section 70 of the Courts Ordinance, 1948, the Sessions Court had no jurisdiction.

The appellant argued the appeal on the basis that the rent of the premises consisted not only of those sums of money specifically referred to in the agreement as rent but also of those sums of money specifically payable in respect of rates.

In support of his contention the appellant cited the cases of *Sidney Trading Co.* v. *Finsbury Borough Council*[1] and *Montague* v. *Browning*[2] as authority for the proposition that rent means the total monetary consideration which the tenant agrees to pay to the landlord for the grant of the tenancy. His argument is that if premises are let at say $1,200 per year inclusive of rates, that $1,200 is "rent" although some part of it represents what the landlord has to pay to the local authority. So here, he says, in substance the monetary consideration which he